

REMARKS/ARGUMENTS

Claims 1-9 and 13-23 are pending in this application. Claims 10-12 have been cancelled. With this amendment, claims 1, 3 and 5 have been amended. Claims 15-23 are new.

Support for claim 1 as amended can be found in paragraphs 23, 25 and 26 of the application as published as well as in the examples. Support for new claim 15 can be found in paragraph 23 of the published application. Support for claim 16 can be found in the claims as originally filed and paragraph 29 as well as the examples in the application. Support for the remaining claims can also be found in the claims as originally filed and in the examples.

Filed concurrently herewith is a Request for Continued Examination. Applicants respectfully request reconsideration of the application in view of this submission.

Claims 1-9 and 13-14 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which applicant regards as the invention. The claims have been amended to use the transitional phrase “consisting essentially of” with respect to the composition of the extended release tablet. The use of the partially closed transitional phrase limits the extended release tablet to the materials listed and any other materials that do not affect the basic and novel characteristics of the invention. The term “dissolution rate controlling polymer” that was the basis for the rejection under 35 U.S.C. §112 has been deleted from the claims thereby rendering the rejection moot. Applicants request that the rejection be withdrawn.

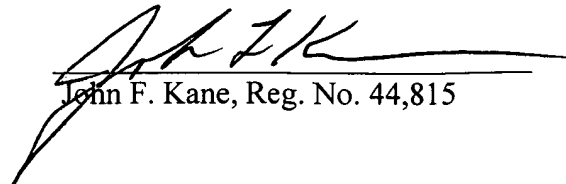
Claims 1-9 and 13-14 stand rejected as being anticipated by or obvious over Rampal et al. (WO 03/017981). Applicant submits that the claims as amended clearly distinguish over the disclosure in Rampal et al. Examples 7 and 8 of the Rampal et al. reference describe compositions containing high viscosity grades of hydroxypropyl methylcellulose. (15,000 and 4,000 cps). Rampal et al. indicates that the hydroxypropyl methylcellulose used should have a viscosity of 4,000 centipoise or higher. By contrast, the claims of the present application include only the very low viscosity hydroxypropyl methylcellulose grades (3-15 cps). Rampal et al.’s

disclosure of dosage forms containing high viscosity hydroxypropyl methylcellulose neither anticipate nor render obvious the claimed dosage forms that refer to the use of the very low viscosity grades of hydroxypropyl methylcellulose.

Applicants vigorously disagree with the position maintained by the Office that “a polymer and its properties are inseparable” as set forth in the Advisory Action. Although applicants can agree with the statement that “products of identical chemical composition cannot have mutual exclusive properties,” the reference to hydroxypropyl methylcellulose refers to a family of polymers rather than polymers having identical chemical compositions. The various grades have differing degrees of substitution and as a result different properties and uses. As one of ordinary skill in the art recognizes, the viscosity ranges for the different hydroxypropyl methylcellulose grades correspond to different molecular weights. The higher viscosity grades have higher molecular weights. Accordingly, because of these differences in molecular weight and other properties, the various grades of hydroxypropyl methylcellulose products provide significantly different functionalities for a wide variety of uses. One of ordinary skill in the art would not use the high viscosity grades as taught by Rampal et al. interchangeably with the low viscosity grade set forth in the claims of the pending application. Therefore, applicants respectfully submit that Rampal et al. fail to disclose or suggest the dosage forms as set forth in the claims of the pending application and, therefore, request that the rejection be withdrawn.

In view of the foregoing, it is respectfully submitted that all of the pending claims are in condition for allowance and favorable action on the merits is requested. Any questions concerning this application may be directed to applicant's undersigned attorney at the telephone number indicated below.

Respectfully submitted,



John F. Kane, Reg. No. 44,815

THOMPSON HINE LLP
2000 Courthouse Plaza NE
10 West Second Street
Dayton, Ohio 45402-1758
(937) 443-6816
452948-v2